

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 13, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1576

Introduced by Assembly Member Huber
(~~Coauthor: Assembly Member Beth Gaines~~)
(Coauthors: Assembly Members Beth Gaines and Williams)
(Coauthor: Senator Gaines)

February 2, 2012

An act to amend Sections 1042 and 47603 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1576, as amended, Huber. Charter schools: loans.

(1) Existing law authorizes a county superintendent of schools, with the approval of the county board of education, to temporarily transfer moneys to a school district under specified circumstances.

The Charter Schools Act of 1992 authorizes any one or more persons to submit a petition to the governing board of a school district to establish a charter school that operates independently from the existing school district structure as a method of accomplishing specified goals.

This bill would, subject to the concurrence of the county superintendent of schools, authorize a county board of education to loan moneys to a charter school for which the county board of education or the county superintendent of schools has a supervisory responsibility or, regardless of whether the charter school is within or outside of the county, with which a county board of education or county superintendent of schools has a contractual relationship. The bill would require the

county superintendent of schools, before the county board of education makes the loan, ~~(A) to advise the chartering authority of the charter school and the county office of education in which the charter school is located that the charter school is requesting the loan, (B) to allow for input from the chartering authority and the county office of education regarding the advisability of making the loan, (C) to solicit a recommendation from bond counsel about the advisability of making the loan, (D) to determine whether to concur with the intent of the county board of education to make the loan, and (E) to notify the county board of education of that determination to take specified actions regarding the advisability of the loan.~~ The bill would provide that any loan of moneys pursuant to these provisions would not constitute a debt or liability for the county superintendent of schools, the county board of education, or the State of California.

(2) Existing law states that *existing law governing charter schools does not prohibit* a private person or organization ~~is not prohibited~~ from providing funding or other assistance to the establishment or operation of a charter school.

This bill would authorize a charter school to contract with a county superintendent of schools or a county board of education for purposes of borrowing moneys, as described above. The bill would require the borrowed moneys to be expended by a charter school solely for purposes of meeting the short term, working capital operational needs of the charter school and not for purposes of making capital acquisitions.

(3) This bill also would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1042 of the Education Code is amended
- 2 to read:
- 3 1042. County boards of education may do all of the following:
- 4 (a) Adopt rules and regulations governing the administration of
- 5 the office of the county superintendent of schools.
- 6 (b) Review the county superintendent of schools annual itemized
- 7 estimate of anticipated revenue and expenditures before the annual
- 8 itemized estimate is filed with the auditor as required by Section
- 9 29040 of the Government Code, and make revisions, reductions,

1 or additions in the annual itemized estimate it deems advisable
2 and proper. An annual itemized estimate shall not be filed by the
3 county superintendent of schools or be approved by the board of
4 supervisors until it has first been so reviewed and approved by the
5 county board of education.

6 (c) In the name by which the county board of education is
7 designated, acquire, lease, lease-purchase, hold, and convey real
8 property for the purpose of housing the offices and the services of
9 the county superintendent of schools, except that this subdivision
10 shall only apply to the county boards of education to which all or
11 a portion of the duties and functions of the county board of
12 supervisors specified in subdivision (b) of Section 1080 have been
13 transferred, with the exception of the recreational duties and
14 recreational functions specified in subdivisions (c) and (d) of
15 Section 1080.

16 (d) Contract with and employ any persons for the furnishing to
17 the county board of education of special services and advice in
18 financial, economic, accounting, engineering, legal, or
19 administrative matters if these persons are specially trained and
20 experienced and competent to perform the special services required.
21 The county board of education may pay to these persons from any
22 available funds the compensation that it deems proper for the
23 services rendered.

24 (e) (1) Notwithstanding Section 25304 of the Government
25 Code, fill by appointment any vacancy that occurs during the term
26 of office of the county superintendent of schools. In a county in
27 which the county superintendent of schools is elected, the appointee
28 shall hold office until the office is filled by election at the next
29 gubernatorial election.

30 (2) The authority described in this subdivision shall be vested
31 in a county board of education only upon its adoption by the county
32 board of education at a public meeting held pursuant to Article 1
33 (commencing with Section 1000).

34 (f) (1) Subject to the concurrence of the county superintendent
35 of schools pursuant to paragraph (3), use and expend moneys to
36 make loans to a charter school for which the county board of
37 education or the county superintendent of schools has a supervisory
38 responsibility or, regardless of whether the charter school is within
39 or outside of the county, with which the county board of education
40 or the county superintendent of schools has a contractual

1 relationship pursuant to subdivision (b) of Section 47603. Moneys
2 borrowed by the county board of education for the purpose of
3 making a loan to a charter school shall be payable solely from the
4 funds of the charter school and shall not constitute a debt or liability
5 of the county board of education or the county superintendent of
6 schools, notwithstanding the provisions of Section 53857 of the
7 Government Code, or any other law.

8 (2) The State of California is not liable for any debt or liability
9 within the meaning of Section 1 of Article XVI of the California
10 Constitution, or otherwise, for loans made pursuant to this
11 subdivision.

12 (3) Before the county board of education makes a loan pursuant
13 to this subdivision, the county superintendent of schools shall do
14 all of the following:

15 (A) Advise the chartering authority of the charter school and
16 the county office of education in which the charter school is
17 primarily located that the charter school has requested the loan.

18 (B) Allow the chartering authority and county office of
19 education to provide input regarding the advisability of making
20 the loan.

21 (C) Solicit a recommendation from ~~bond counsel~~ *a recognized*
22 *authority on school district financial management who is not an*
23 *employee of the county office of education* about the advisability
24 of making the loan. *The recommendation shall consider the*
25 *financial condition of the charter school, the level of risk assumed*
26 *by the county office of education, and the potential impact on the*
27 *county office of education if the charter school is unable to repay*
28 *the loan.*

29 (D) *Disclose the information received pursuant to*
30 *subparagraphs (B) and (C) at a regularly scheduled meeting of*
31 *the county board of education.*

32 ~~(D)~~

33 (E) Determine whether to concur with the intent of the county
34 board of education to make the loan.

35 ~~(E) Notify the county board of education of the determination~~
36 ~~made pursuant to subparagraph (D).~~

37 SEC. 2. Section 47603 of the Education Code is amended to
38 read:

1 47603. (a) This part shall not be construed to prohibit any
2 private person or organization from providing funding or other
3 assistance to the establishment or operation of a charter school.

4 (b) (1) A charter school may contract with a county
5 superintendent of schools or a county board of education for
6 purposes of borrowing moneys pursuant to subdivision (f) of
7 Section 1042.

8 (2) Moneys borrowed pursuant to subdivision (f) of Section
9 1042 shall be expended by a charter school solely for purposes of
10 meeting the short term, working capital operational needs of the
11 charter school; and shall not be used for purposes of making capital
12 acquisitions.

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